

FEDERAL  
CONFIDENTIAL  
FUNDS  
GUIDELINES

Adopted by the  
Louisiana Commission on Law Enforcement  
and the  
Drug Control and Violent Crime Policy Board

## February 2009

These provisions apply to all awarding agency professional personnel, recipients, and subrecipients involved in the administration of grants containing confidential funds. Confidential funds are those monies allocated to:

- Purchase of Services (P/S). This category includes travel or transportation of a non-federal officer or an informant; the lease of an apartment, business front, luxury-type automobiles; aircraft or boat, or similar effects to create or establish the appearance of affluence; and/or meals, beverages, entertainment, and similar expenses (including buy money and flash rolls, etc.) for undercover purposes, within reasonable limits.

**NOTE: While OJP guidelines allows for the purchase of services to include rental/leasing/buying of automobiles, aircraft, or boats, the drug policy board and the Louisiana Commission on Law Enforcement prohibit the expenditure of funds for these areas as well as gasoline, tires, repair and maintenance, and insurance for these items. Therefore confidential funds cannot be used for these items. Also, any type of construction is prohibited by both federal and commission policy.**

All items classified, as “purchase of services” must be for legitimate expenses in conducting undercover activities for apprehension/prosecution of drug offenders. All expenses must be within reasonable limits, must be documented and receipts maintained, and must be shown to have been connected to undercover drug operations. Anytime it is not possible to obtain receipts for purchase of services because it would endanger the lives of officers and/or informants, or because it would reveal undercover activities, the project director must certify the expenditures and document why such receipts were not obtained.

- Purchase of Evidence (P/E). This category is for the purchase of evidence and/or contraband, such as narcotics and dangerous drugs, firearms, stolen property, counterfeit tax stamps, etc., required to determine the existence of a crime or to establish the identity of a participant in a crime.

NOTE: Documentation and receipts must be obtained/maintained and expenditures must be reasonable. Purchase of evidence must be linked to a legitimate drug case as proven by arrests, case records, crime lab receipts/reports, etc.

- Purchase of Information (P/I). This category includes the payment of monies to an informant for specific information. All other informant expenses would be classified under P/S and charges accordingly.

These funds should only be allocated when:

1. The particular merits of a program/investigation warrant the expenditure of these funds.
2. Requesting agencies are unable to obtain these funds from other sources

Confidential funds are subject to prior approval. Such approval will be based on a finding that they are a reasonable and necessary element of project operations. In this regard, the approving agency must also ensure that the controls over disbursement of confidential funds are adequate to safeguard against the misuse of such funds.

**APPROVAL AUTHORITY**

The APPROVING AUTHORITY for the ALLOCATION of confidential funds is:

1. The awarding agency for block/formula grantees and categorical grantees including Regional Information Sharing System (RISS) program projects).
2. The recipient agency for block/formula subrecipients.

**CONFIDENTIAL FUNDS CERTIFICATION**

A signed certification that the Project Director has read, understands, and agrees to abide by these provisions is required from all projects that are involved with confidential funds from either Federal or matching funds. The signed certification must be submitted at the time of grant application.

**SAMPLE**

CONFIDENTIAL FUNDS CERTIFICATION

This is to certify that I have read, understand, and agree to abide by all of the conditions for confidential funds as set forth in the effective edition of OJP’s Financial Guide.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Project Director

Grant No. \_\_\_\_\_

**WRITTEN PROCEDURES**

Each project authorized to disburse confidential funds must develop and follow internal procedures, which incorporate the following elements listed below. Deviations from these elements must receive prior approval of the awarding agency.

1. **Imprest Fund.** The funds authorized will be established in an imprest fund, which is controlled by a bonded cashier. Each agency administering a project which involves confidential funds must maintain specific records consisting of all documentation

concerning request for funds, receipts, etc., necessary to justify and track all expenditures.

NOTE: ALL RECORDS REGARDING CONFIDENTIAL EXPENDITURES, EXCEPT FOR THE TRUE NAME OF THE INFORMANT, ARE SUBJECT TO RECORD AND AUDIT PROVISION OF THE STATE/FEDERAL GRANTOR AGENCY.

**2. Advance of Funds.** The supervision of the unit to which the imprest fund is assigned must authorize all advances of funds for the purchase of information. Such authorization must specify the information to be received, the amount of expenditures, and the assumed name of informant.

- Subgrantee agency should establish steps to take if fund advance is lost or stolen.
- Everyone with access to the fund, including officers who receive advances and the custodian, should be bonded in an amount equal to his/her maximum access to fund monies.
- The project director or his designee should maintain an activity log or ledger showing every cash in/cash out transaction and ending balance. This ledger should be reconciled quarterly and this reconciliation should be kept on file.
- Project director over confidential funds must authorize all advances of funds through an advance form cash-out slip. These advances are to be used when the particular merits of a program/investigation warrant their expenditure for a specific purpose. Guidelines should be established by the subgrantee agency authorizing officers to spend up to a predetermined limit of total allowance on any one buy or investigation. These guidelines shall be reviewed by the State/Federal agency conducting the monitoring of these funds.

**3. Informant Files.** Information files are confidential files of the true names, assumed names, and signatures of all informants to whom payments of confidential expenditures have been made. To the extent possible, pictures and/or fingerprints of the informant payee should also be maintained. In the RISS program, the informant files are to be maintained at the member agencies only. Project Headquarters may maintain case files.

#### **4. Cash Receipts.**

- a. The cashier shall receive from the agent or officer authorized to make confidential payment a receipt for cash advanced to him/her for such purposes and before additional cash is advanced.
- b. The agent or officer shall receive from the informant payee a receipt for cash paid to him/her.

**SAMPLE**

Informant Payee Receipt

For and in consideration of the sale and delivery to the State, Parish, or City of \_\_\_\_\_ information or evidence indentified as follows: \_\_\_\_\_

I hereby acknowledge receipt of \$\_\_\_\_\_ (numerical and word amount entered by person) paid to me by the State, Parish, or City of \_\_\_\_\_.

Date:

Case Reference No

Payee Signature:

Case Agent/Officer Signature:

Witness Signature:

**5. Receipt for Purchase of Information.** An informant payee receipt shall identify the exact amount paid to and received by the informant payee on the date executed. Cumulative or anticipatory receipts are not permitted. Once the receipt has been completed, **no alteration is allowed**. The agent shall prepare an informant payee receipt containing the following information:

- The jurisdiction initiating the payment
- A description of the information/evidence received;
- The amount of payment, both in numerical and word format;
- The date on which the payment was made;
- The signature of the informant payee;
- The signature of the case agent or officer making payment;
- The signature of at least one other officer witnessing the payment;
- The signature of the first line supervisor authorizing and certifying the payment;
- and
- Original signed receipt should be submitted to the Project Director for Review

Receipts should be obtained for purchases of information and other informant related expenditures if it does not endanger officer safety or undercover investigations.

- Vouchers are to be maintained for purchases of evidence, services or other informant-related expenditures, and should be completed to document funds used for PE/PI/PS purposes.

**6. Reviews and Certification.** The signed receipt from the informant payee with a memorandum detailing the information received shall be forwarded to the agent officer in charge. The agent or officer in charge shall compare the signatures.

He/she shall also evaluate the information received in relation to the expense incurred and his/her evaluation remarks in the report of the agency or officer who made the expenditure from the imprest fund. The certification will be witnessed by the agent or officer in charge on the basis of the report and informant payee's receipt.

7. **Reporting of Funds.** Each project shall prepare a reconciliation report on the imprest fund on a quarterly basis. Information to be included in the reconciliation report will be the assumed name of the informant given and to what extent this informant contributed to the investigation. Grantees shall retain the reconciliation report in their files and have it available for review unless the State agency request the report be submitted to them on a quarterly basis.
8. **Record and Audit Provisions.** Each project and member agency must maintain specific records of each confidential fund transaction. At a minimum, these records must consist of all documentation concerning the request for funds, processing (should include the review and approval/disapproval), modifications, closure or impact material, and receipts and/or other documentation necessary to justify and track all expenditures. Refer to the documentation under "Informant Files" below for a list of documents which should be in the informant files. In projects where grant funds are used for confidential expenditures, it will be understood that all of the above records are subject to the record retention requirements and audit provision of the awarding agency and program legislation. However, only under extraordinary and rare circumstances would such access include a review of the true name of confidential informant. When access to the true name of confidential informants is necessary, appropriate steps to protect this sensitive information must and will be taken by the recipient, awarding agency, and auditing agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by both the OJP Program Office Head and the Chief Financial Officer.

## **INFORMANT FILES**

1. **Security.** A separate file should be established for each informant for accounting purposes. Informant files should be kept in a separate and secure storage facility, segregated from any other files, and under the exclusive control of the office head or an employee designated by him/her. The facility should be locked at all times when unattended. Access to these files should be limited to those employees who have a necessary legitimate need. An informant file should not leave the immediate area, except for review by a management official or the handling agent, and should be returned prior to the close of business hours. Sign-out logs should be kept indicating the date, informant number, time in and out, and the signature of the person reviewing the file.
2. **Documentation.** Each file should include the following information:
  - a. Informant Payment Record, kept on top of the file. This record provides a summary of informant payments.

- b. Informant Establishment Record, including complete identifying and locating data, plus any other documents connected with the informant's establishment.
- c. Current photograph and fingerprint card (or FBI/State Criminal Identification Number).
- d. Agreement with cooperating individual.
- e. Receipt of Purchase of Information.
- f. Copies of all debriefing reports (except for the Headquarters case file).
- g. Copies of case initiation reports bearing on the utilization of the informant (except for the Headquarters case file).
- h. Copies of statements signed by the informant (unsigned copies will be placed in appropriate investigative files).
- i. Any administrative correspondence pertaining to the informant, including documentation of any representations made on his behalf or any other non-monetary considerations furnished.
- j. Any deactivation report or declaration of an unsatisfactory informant.

## **RISS PROGRAM**

### **1. Processing Procedures**

- a. **Authorization of Disbursement.** The project policy board establishes the maximum level the Project Director may authorize in disbursements to member agencies. The Project Director, or his designee may authorize payment of funds to member agencies and their officers for the purchase of information and evidence up to this maximum level. The Project Director must refer all requests for amounts in excess of the maximum level to the project policy board for review and approval.
- b. **Request of Funds.** Any member agency requesting funds from the project will do so in writing. The request must contain the amount needed the purpose of the funds, and a statement that the funds requested are to be used in furtherance of the project's objectives. Additionally, the agency must provide a statement agreeing to establish control, accounting, and reporting procedures consistent with the procedures outlined in this chapter.
- c. **Processing the Request.** The Project Director, or his/her Designee when appropriate, will approve or disapprove the request. If approved, the request will be forwarded to the project cashier who will record the request and transmit the monies, along with a receipt form, to the member agency. Upon receipt of the monies, the member agency will immediately sign and return the receipt form to the cashier.
- d. **Records.** For all transactions involving the purchase of information, each Project Director must maintain on file the assumed name and signature of all informants to whom member agencies make payments from project funds.
- e. **Processing the Informant Payee Receipt.** The original signed informant payee receipt, with a summary of the information received, will be forwarded to the project by the member agency. The Project Director will then authenticate the receipt by comparing the signature of the informant payee on the receipt with the signature maintained by the project in a confidential file. If

discrepancies exist, the Project Director, or his/her designee, will take immediate steps to notify the member agency and ascertain the reason(s) for the discrepancies. The member agency must forward written justification to address the discrepancies of the project director. If satisfactory, the justification will be attached to the informant payee receipt.

**2. Informant Management and Utilization.** All persons who will be utilized as informants should be established as such. The specific procedures required in establishing a person as an informant may vary from jurisdiction to jurisdiction but, at a minimum, should include the following:

- a. Assignment of an informant code name to protect the informant's identity.
- b. Creations of an informant code book controlled by the office head or his/her designee containing:
  - (1) Informant's code name;
  - (2) Type of informant (i.e., informant, defendant/informant, restricted-use informant);
  - (3) Informant's true name
  - (4) Name of establishing law enforcement officer;
  - (5) Date the establishment is approved;
  - (6) and Date of deactivation.
- c. Establishment of each informant files in accordance with Documentation, Item 2, under Informant Files.
- d. Review of all active status informant files on a quarterly basis to assure they contain all relevant and current information. Where a MATERIAL fact that was earlier reported on the Establishment Record is no longer correct (e.g., a change in criminal status, means of locating him/her, etc.), a supplemental establishing report should be submitted with the correct entry.
- e. A search of all available criminal indices for informants being established. If a verified FBI number is available, request a copy of the criminal records from the FBI. Where a verified FBI number is not available, the informant should be fingerprinted, with a copy sent to the FBI and appropriate State authorities for analysis. The informant may be utilized on a provisional basis while awaiting a response from the FBI.

**3. Payment to Informants.**

- a. Any person who is to receive payments charged against PE/PI funds should be established as an informant. This includes persons who may otherwise be categorized as sources of information or informants under the control of another agency. The amount of payment should be commensurate with the value of services and/or information provided and should be based on the following factors:

- (1) The level of the targeted individual, organization, or operation;

- (2) The amount of the actual or potential seizures; and
- (3) The significance of the contribution made by the informant to the desired objectives.

b. There are various circumstances in which payments to informants may be made:

- (1) **Payments for Information and/or Active Participation.** When an informant assists in developing an investigation, either through supplying information or actively participating in it, he/she may be paid for his/her service either in a lump sum or in staggered payments. Payments for information leading to a seizure, with no defendants, should be held to a minimum.
- (2) **Payment for Informant Protection.** When an informant needs protection, law enforcement agencies may absorb the expenses of relocation. These expenses may include travel for the informant and his/her immediate family, movement and/or storage of household goods, and living expenses at the new location for a specific period of time (not to exceed six months). Payments for these expenses may be either lump sum or as they occur and should not exceed the amounts authorized by law enforcement employees for these activities.
- (3) **Payments to Informants of Another Agency.** To use or pay another agency's informant, he/she should be established as an informant. These payments should not be a duplication of a payment from another agency; however, sharing a payment is acceptable.

c. Documentation of payments to informants is critical and should be accomplished on a receipt for purchase of information. Payment should be made and witnessed by two law enforcement officers and authorized payment amounts should be established and reviewed by at least the first line supervisory level. In unusual circumstances, a non-officer employee or an officer of another law enforcement agency may serve as a witness. In all instances, the original signed receipt must be submitted to the Project Director for review and recordkeeping.

## ACCOUNTING AND CONTROL PROCEDURES

Special accounting and control procedures should govern the use and handling of confidential expenditures as described below:

1. It is important that expenditures identified as P/E, P/I, and P/S expenses are in fact allocated and charged to the proper category. It is only in this manner that these funds may be properly managed at all levels and accurate forecasts of projected needs be made.
2. Each law enforcement entity should apportion its P/E, P/I, or P/S allowance throughout its jurisdiction and delegate authority to approve P/E, P/I, and P/S expenditures to those offices, as it deems appropriate.
3. Headquarters management should establish guidelines authorizing offices to spend up to a predetermined limit of their total allowance on any one investigation.
4. In exercising his/her authority to approve these expenditures, the supervisor should consider:
  - a. The significance of the investigation;
  - b. The need for this expenditure to further that investigation; and
  - c. Anticipated expenditures in other investigations. Funds for P/E, P/I, and P/S expenditures should be advanced to the officer for a specific purpose. If they are not expended for that purpose, they should be returned to the cashier. They should not be used for another purpose (including another category) without first returning them and repeating the authorization and advance process based on the new purpose.
5. Funds for P/E, P/I, or P/S expenditure should be advanced to the officer on a suitable receipt form. A receipt for P/I or a voucher for P/E should be completed to document funds used in P/e or funds paid or advanced to an informant.
6. For security purposes, there should be a 48-hour limit on the amount of time funds advanced for P/E, P/I, or P/S expenditure may be held outstanding. If it becomes apparent at any point within the 48-hour period that the expenditure will not materialize, then the funds should be returned to the advancing cashier as soon as possible. An extension to the 48-hour limit may be granted by the level of management that approved the advance. Factors to consider in granting such an extension are: the amount of funds involved, the degree of security under which the funds are being held, the length of extension required, and the significance of the expenditure. Such extensions are generally limited to 48 hours.

Recipients should consult with the program office prior to determining the final course of action. Beyond this time period, the funds should be returned and re-advanced, if necessary. Regardless of circumstances, within 48 hours of the advance, the fund cashier should be presented with either the unexpended funds, and executed voucher for P/I or P/E, or written notification by management that an extension has been granted.

7. P/S expenditures, when not endangering the safety of the officer of informant, need to be supported by cancelled tickets, receipts, lease agreements, and so forth. If not available, the office head, or his/her immediate subordinate, must certify that the expenditures were necessary and justify why supporting documents were not obtained.